

## COMMISSION HEARING OFFICER DIRECTIVE

ADMINISTRATIVE MATTERS	<input type="checkbox"/>	DATE	<u>August 1, 2006</u>
MOTOR CARRIER MATTERS	<input type="checkbox"/>	DOCKET NO.	<u>2006-107-WS</u>
UTILITIES MATTERS	<input checked="" type="checkbox"/>	ORDER NO.	<u>n/a-</u>

**HEARING OFFICER:**        **B. Randall Dong**

### **DOCKET DESCRIPTION:**

Application of United Utility Companies, Inc. for adjustment of rates and charges and modification to certain terms and conditions for the provision of water and sewer service.

### **MATTERS UNDER CONSIDERATION:**

**Petition of North Greenville University to Intervene**

**Motion of United Utility Companies, Inc. to Dismiss Portion of Petition to Intervene of North Greenville University and to Limit the Scope of Intervention by North Greenville University**

**Petition of Greenville Timberline SC, LLC to Intervene**

**Motion of United Utility Companies, Inc. to Dismiss Petition to Intervene of Greenville Timberline SC, LLC**

**Request by United Utility Companies, Inc. for Leave to Take Depositions of GTSC Witnesses**

### **HEARING EXAMINER ACTION:**

**Petition of North Greenville University to Intervene and Corresponding Motion by United Utility Companies, Inc. to Dismiss and to Limit Scope of Intervention**

The motion of North Greenville University to intervene in this docket is granted. United Utility Companies, Inc. admits that North Greenville University is a customer and may therefore intervene as a matter of right.

The motion of United Utility Companies, Inc. to dismiss in part and to limit the scope of intervention by North Greenville University is granted only to the extent that North Greenville University has disclaimed any intent to use its intervention in the current docket to challenge Order No. 2004-253, which was issued in Docket No. 2000-210-WS. Accordingly, while North Greenville University may intervene as a matter of right and oppose the rate adjustment proposed by United Utility Companies, Inc., it may not re-litigate previously decided matters or contest prior findings by the Commission in previous dockets.

To the extent that United Utility Companies, Inc. has also moved to exclude certain documents from the evidence in this docket, such evidentiary matters are held in abeyance.

**Petition of Greenville Timberline SC, LLC to Intervene and Corresponding Motion by United Utility Companies, Inc. to Dismiss**

The motion of Greenville Timberline SC, LLC to intervene in this docket is granted. Greenville Timberline SC, LLC has alleged that it is a customer of United Utility Companies, Inc., that it currently owns property within the service area of United Utility Companies, Inc., and that the fact of the subject property's location within the service area of United Utility Companies, LLC may adversely affect Greenville Timberline SC, LLC and the future purchasers of the property. Greenville Timberline SC, LLC has therefore complied with S.C. Code Ann. Regs. 103-836(A)(3).

United Utility Companies, Inc. seeks dismissal of the motion to intervene based upon alleged deficiencies in the pleadings of Greenville Timberline SC, LLC. However, such motions to dismiss are to be granted only where the allegations set forth in the petition, when viewed in the light most favorable to the petitioner, fails to state any valid claim for relief. *Clearwater Trust v. Bunting*, 367 S.C. 340, 343, 626 S.E.2d 334, 335 (S.C. 2006), *citing Carolina Care Plan, Inc. v. United Healthcare Services, Inc.*, 361 S.C. 544, 606 S.E.2d 752 (S.C. 2004). The pleading of Greenville Timberline SC, LLC is sufficient to survive the motion to dismiss under the notice pleading standard, which has generally replaced the code pleading standard in South Carolina after the adoption of the present rules of civil procedure. *See, Carolina Care Plan, Inc.*, 361 S.C. 544, 553, 606 S.E.2d 752, 757 (applying notice pleading standard). Therefore, the motion to dismiss is denied.

To the extent that United Utility Companies, Inc. has also moved to exclude certain documents from the evidence in this docket, such evidentiary matters are held in abeyance.

**Request by United Utility Companies, Inc. for Leave to Take Depositions of GTSC Witnesses**

The request by United Utility Companies, Inc. for leave to depose Robert Richburg and Cliff Brown is granted. Such depositions are to be taken at a time and place mutually agreed to by the parties and witnesses.